
COMPENSATION FOR LONGITUDINAL ACCESS TO INTERSTATE HIGHWAY RIGHTS-OF-WAY BY TELECOMMUNICATIONS PROVIDERS

The following information summarizes how compensation is determined for longitudinal access to Interstate highway rights-of-way by telecommunication providers. This summary does not address compensation paid for access to rights-of-way on state highways.

BACKGROUND

The Competition in Telecommunications Industry Task Force reported to the Public Utilities and Technology Interim Committee on Wednesday, November 20, 2002. Included in that report was the following recommendation:

"Longitudinal Access to Interstate Highways: The PUT should review whether statutory changes are needed to address any undue barriers to access to the rights-of-way along the state's interstate highway system. The Task Force recommends that the PUT's review should examine:

- eliminating in-kind compensation as a condition for a telecommunications provider to have access to rights-of-way; and
- ensuring that the system is sensitive to the differences between rural and urban areas, which may include maintaining some type of zone structure."

UTAH CODE ANN. § 72-7-108 AND UTAH ADMINISTRATIVE CODE RULE 907-65

Compensation must be:

- ▶ fair and reasonable;
- ▶ competitively neutral;
- ▶ nondiscriminatory;
- ▶ open to public inspection;
- ▶ established to promote access by multiple telecommunications providers;
- ▶ established by zones of the state;
- ▶ established to encourage deployment of digital structure; and
- ▶ established by UDOT (Utah Department of Transportation) after conducting a market analysis.

Payment of compensation:

- ▶ may be annual or by a one-time payment, at the option of the telecommunications provider; and
- ▶ may include either cash or, under certain circumstances, in-kind compensation.

Annual payments

UDOT determines by rule:

- ▶ the compensation zones (currently 5);
- ▶ land values within each zone (analysis conducted at least once every 5 years); and
- ▶ the rate of return on land value (currently 10%).

Base compensation is calculated on the basis of zones, land value, and rate of return. Two key formulas are:

- ▶ Annual compensation rate (\$/mile) = (zonal land value)(rate of return); and
- ▶ Total annual compensation = (annual compensation rate)(# of miles accessed).

The base compensation amount may be adjusted annually to reflect changes in CPI-U (Consumer Price Index for all Urban Consumers) for the West and additional rules apply for access across multiple zones and for multiple providers in the same trench.

Lump sum payments

UDOT determines lump sum payments by rule:

- ▶ calculated to be equivalent, on a present value basis, to annual compensation payments over the same time period;

and

- ▶ using a discount rate equal to the yield on Moody's Seasoned Aaa Corporate Bonds.